

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

KENNETH R. KASHUBA,

Petitioner,

v.

STATE OF OREGON,

Respondent.

Case No. 2:15-cv-81-SU

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Patricia Sullivan issued a Findings and Recommendation in this case on March 11, 2015. Dkt. 7. Judge Sullivan recommended that Petitioner's habeas corpus petition be denied *sua sponte* for lack for jurisdiction. No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1)(C). If a party files objections to a magistrate's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, however, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”). Nor does the Act “preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. And the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

As no party has made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Sullivan’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge Sullivan’s Findings and Recommendation, Dkt. 7. Petitioner’s habeas corpus petition is DISMISSED for lack of jurisdiction. Because Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2), the Court declines to issue a Certificate of Appealability.

IT IS SO ORDERED.

DATED this 10th day of April, 2015.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge